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Official violates beach rules

June 8, 2006

Although state regulations governing "beach grooming" along Great Lakes shorelines remained unclear this week, at least one fact is clear to Leelanau County Drain Commissioner Steve Christensen.

Bingham Township supervisor Robert W. Foster violated the county's Soil Erosion Control ordinance by allowing "neighbors" in the Lee Point area to grade a parking area and beach at the township's waterfront Hendryx Park without first obtaining a soil erosion permit, Christensen said.

Christensen said he visited the site last week and noted that soil below the "ordinary high water mark" on Lake Michigan had been graded.

"Anything below that mark is within the jurisdiction of the Army Corps of Engineers and the Michigan Department of Environmental Quality," Christensen said. He added that he had since been in touch with an MDEQ official who will likely look into whether Foster broke state or federal laws in addition to the county ordinance.

The MDEQ announced this week that it had reached an agreement with shoreline property rights activists – notably, "Save Our Shoreline" – and various environmental groups concerned about the impact of beach grooming activities on the Great Lakes ecosystem.

In June 2003, the Michigan legislature exempted mowing and other beach maintenance activities from wetland protection requirements, and established two pilot areas where vegetation removal in the Great Lakes and coastal wetlands would be given expedited approval – in Saginaw Bay, and Grand Traverse Bay. Scientific studies subsequently revealed that many of the beach grooming activities were hurting the environment and aquatic wildlife.

Although the expedited approval process expired on Monday, the MDEQ announced that it had agreed to outline a new process for allowing certain types of beach grooming.

Those who graded a parking lot and groomed the beach at Hendryx Park apparently did so well before the expedited approval process expired. The process required those seeking to clear vegetation from the beach below the "ordinary high water mark" to first receive a "letter of authorization" from the DEQ director. Christensen said he has

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no indication that any such authorization was sought or received for the Hendryx Park project.

Foster told the Enterprise that the parking lot at Hendryx Park was graded over Memorial Day weekend and that the beach was groomed "several weeks ago."

He explained that at least seven Lee Point area residents living within a mile of Hendryx Park own small Kubota earth movers, which were used for the work. Foster said a neighbor living near the park had excavated some dirt and had asked for permission to put the dirt on the parking lot at Hendryx Park, which Foster granted. The new dirt was subsequently graded by "neighbors," Foster said.

Much of the Lee Point neighborhood, where Foster resides, is dotted with "Save Our Shoreline" lawn signs. In April, the Bingham Township Board became the only unit of government in Leelanau County to formally adopt a resolution, provided by members of "Save Our Shoreline," calling on the state legislature to keep the expedited beach grooming approval process in place.

Foster said he and other local residents attended a May 17 meeting in Traverse City held by the DEQ on the topic; and he had specifically asked MDEQ officials there whether it was legal for the Hendryx Park beach to be groomed.

"You don't need any permits to do the kind of work that was done at Hendryx Park, a stated to me by a DEQ official at that meeting," Foster said.

Foster steadfastly declined to mention the names any of the Lee Point area "neighbors" who actually did the work.

"What I did was perfectly legal," Foster continued.

Pressed by a reporter over whether he was one of the "neighbors" involved in doing the work at Hendryx Park, Foster acknowledged that he was.

"This is just a big bureaucratic deal," Foster said. "Steve Christensen is just trying to push a little influence. It's stupid."

Christensen noted after visiting Hendryx Park that Foster and others had moved earth within 500 feet of a lake or stream – something clearly not allowed without a permit under the county ordinance.

The ordinance also specifies that no earth can be moved within 100 feet of a regulated wetland. Christensen noted that a wetland is located immediately adjacent to Hendryx Park on the north side of Lee Point Road, and that a culvert diverts water from the wetland into Lake Michigan along the edge of the park.

"The township supervisor claimed ignorance of the rules, but ignorance is no excuse," Christensen said.

He said that he required Foster to submit a soil erosion permit application after-the-

fact, but would not likely seek sanctions against the township unless violations persis

"Beach grooming activity is not always as harmful along some of the sandy beaches like the ones on Lee Point Road," Christensen said. "But the fact is that most of the shoreline along Grand Traverse Bay in Leelanau County is stone cobble on a clay ban. If we have people moving dirt around with all the little bulldozers they're buying, then all that sediment will end up in the bay and wreak havoc on the environment."

by Eric Carlson

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[Previous Page](#)

[Editorial Index](#)

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